



Masonic Villages

Terms and Conditions

1. **Offer, Acceptance and Modification.** This Purchase Order is an offer to Seller by Buyer to enter into the purchase agreement it describes, and upon acceptance shall be the complete and exclusive statement of such agreement. ACCEPTANCE OF SUCH OFFER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN. Any terms and conditions proposed by Seller in Seller's quotation, invitation, acceptance, acknowledgment, invoice, transmittal or any other document which are different from, conflict with, or add to the terms and conditions set forth herein shall be deemed to materially alter the terms and conditions set forth herein and are hereby objected to and rejected by Buyer. Acceptance of Buyer's offer shall occur upon the happening of any of the following events, but is not limited to these events: (a) receipt by Buyer of a copy of this Purchase Order signed by Seller without alteration thereto, (b) receipt by Buyer of notification from Seller that Seller has commenced performance hereunder or that Seller intends to perform, or (c) any performance (partial or otherwise) by Seller. This Purchase Order is not automatically renewable.

2. **Changes.** Buyer at any time may change the design (including drawings, materials, and specifications), processing, method of packing and shipping, and the place of delivery of the goods and services. If such change affects cost or timing, Buyer shall adjust purchase price and delivery schedule equitably. Seller shall not make any change in the design, processing, packing, shipping, or place of delivery of the goods and services without Buyer's written approval. Seller shall notify Buyer of each proposed change to this Purchase Order agreement, including, but not limited to, changes for safety, compliance with laws or regulations, compliance with the specifications of this order, quality or price. Such notice shall identify the number of this Purchase Order. Seller shall implement the change in the goods only upon written permission of Buyer. Any price increase must be approved by Buyer in writing in advance.

3. **Bailed Property.** Unless otherwise specified in this Purchase Order, Seller is responsible for loss of and damage to property owned by Buyer and possessed by Seller for use in carrying out this order, including responsibility for loss and damage that occur despite Seller's exercise of reasonable care, but excluding normal wear and tear. Seller shall properly house and maintain such property on Seller's premises, refrain from commingling it with the property of Seller or with that of a third party, and maintain it as personally. Buyer shall have the right to enter Seller's premises at reasonable times to inspect such property and Seller's records pertaining thereto and to take possession of the property. Upon Buyer's request, Seller immediately shall deliver such property to a carrier selected by Buyer, properly packed and marked.

4. **Under or Over Shipments.** Seller may not deviate from quantities on this Purchase Order without written permission of Buyer. Buyer may return over shipments to Seller at Seller's expense for all packing, handling, sorting, and transportation.

5. **Packing, Marking, and Shipping.** Seller shall pack and ship the goods in accordance with the requirements of Buyer and the carrier transporting such goods. Seller shall mark each package in accordance with instructions of Buyer and the carrier. Seller will reimburse Buyer for costs incurred as a result of improper packing, marking, routing, or shipping. Seller may charge separately for packing, marking, or shipping if Buyer authorizes such charges in which case Seller shall add such charges to its invoice as a separate item and attach supporting data. Buyer may require shipment of any of the goods covered by this agreement by a more expeditious method of transportation if Seller fails to meet the shipping requirements of this agreement. The Seller shall bear the cost of such transportation. Seller shall be responsible for any loss, damage or injury that results from, or occurs during, shipment of goods by Seller's vehicles. Terms are FOB Buyer's facility as shown on this Purchase Order, unless otherwise negotiated.

6. **Packing Slips and Bills of Lading.** Seller shall obtain a straight bill of lading from the carrier of these goods and shall include on each packing slip and bill of lading the number of this Purchase Order and the location of Buyer's destination facility. The packing slip shall be included in one of the packages, which shall be marked "Packing Slip Inside." Seller shall retain the original bill of lading for two years from the date of shipment, unless otherwise directed by the Buyer.

7. **Inspection.** Buyer has the option to reject, or retain and correct, goods that do not meet the requirements of this Purchase Order. If Buyer elects to correct the goods, it shall consult with Seller on the method of correction. Seller shall reimburse Buyer for reasonable expenses resulting from rejection or correction (including reasonable attorneys' fees).

8. **Warranties.** Seller expressly warrants that all goods and services delivered and performed pursuant to this Purchase Order: (a) shall strictly conform in all respects with Buyer's requirements stated, incorporated or referenced in this Purchase Order; (b) shall strictly conform in all respects to any samples, drawings, specifications or other written documents presented to Buyer in connection with the sale of the goods and services to Buyer; (c) shall be merchantable, of new and best material, and fit for the purpose for which the goods are used; (d) shall be free from all defects, including latent defects, in workmanship, material and design; and (e) shall be fit for any particular purpose communicated by Buyer to Seller. In addition to the foregoing express warranties, the goods and services shall be subject to all warranties arising by operation of law. These warranties shall survive inspection, delivery, acceptance and payment, shall run to Buyer, its successors, assigns, customers and users of the goods and services and shall not be deemed to be exclusive. Seller shall be bound by any representation or undertaking made by any of its agents or employees with respect to specifications, quality, packaging, price or conditions of delivery of the goods and services. By accepting this Purchase Order, Seller ratifies any such representation or undertaking made by any of its agents or employees. Seller agrees that products and services offered herein have not been restricted or recalled by The Food and Drug Administration, or similar regulating agencies.

9. **Sanctions.** The Seller agrees to the following statement: "Buyer complies with all federal and state laws and regulations including the requirement not to employ or contract with sanctioned individuals or companies. By acceptance of this Purchase Order, Seller is stating Seller or any individual employed by Seller has not been listed by a federal agency as debarred, excluded or otherwise ineligible for participation in federally funded health care programs."

10. **Subcontracting and Advertising.** Seller may subcontract for goods or services to be incorporated in the goods or services of this Purchase Order. Seller is responsible for ensuring subcontractors meet all responsibilities set forth herein. Seller shall not refer to Buyer in advertising or public releases without Buyer's written approval.

11. **Delays.** In the event of a delay in performance, Buyer at its option may acquire possession of all finished goods, work in process, and parts and materials produced or acquired for the work hereof, and Seller immediately shall deliver such property to a carrier selected by Buyer, properly packed and marked under the terms of this Purchase Order.

12. **Work on Buyer's Premises; Insurance.** If Seller's employees, contractors, or agents provide services to Buyer on Buyer's premises, Seller shall examine the premises to determine whether they are safe for such services and shall advise Buyer promptly of any situation it deems to be unsafe. Until the goods are delivered and the services are performed, and for a period of one year thereafter, Seller shall maintain a policy of commercial general liability insurance with a per occurrence limit of at least \$1,000,000 and an aggregate limit of at least \$2,000,000, automobile insurance with an aggregate limit of at least \$1,000,000 and worker's compensation insurance as required by law. Seller will deliver certificates of insurance evidencing the insurance coverages required by this paragraph.

13. **Sales and Use Tax.** Buyer, as a charitable organization, has a State of Pennsylvania Exemption Certificate for state sales and use taxes that applies except for any materials, goods and equipment used in the construction, remodeling, repairs and maintenance of any real estate (except goods and equipment when purchased for routine maintenance and repairs) and purchases of "building machinery and equipment." Seller will be advised by Buyer of Buyer's tax-exempt number, as required. Seller also will be advised by Buyer if tax-exempt status does not apply.

14. **Termination at Option of Buyer.** Buyer may terminate its purchase obligations hereunder, in whole or in part, at any time, by a written notice of termination to Seller. Upon receipt of the notice of termination, Seller, unless otherwise directed by Buyer, shall terminate promptly all work under this Purchase Order, transfer title and deliver to Buyer the finished work, the work in process, and the parts and materials that Seller produced or acquired in accordance with the Purchase Order and that Seller cannot use in producing goods for itself or for others, settle all claims by contractors for actual costs that are rendered unrecoverable by such termination, and take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest. Upon termination by Buyer under this Section, Buyer's obligation to Seller shall be the Purchase Order price for all finished work and completed services that conform to the requirements of the Purchase Order, Seller's actual cost of the work in process and parts and materials transferred to Buyer, Seller's actual costs of settling the claims by subcontractors, and Seller's actual cost of carrying out its obligations. Buyer's obligations shall not exceed those Buyer would have had to Seller in the absence of termination. Seller shall furnish to Buyer, within one month after the date of termination, Seller's termination claim, which shall consist exclusively of the items of Buyer's obligations to Seller. Buyer shall not be liable to Seller if Buyer terminates its purchase obligations of this Purchase Order because of Seller's default.

15. **Indemnification.** Seller assumes the entire responsibility and liability for, and agrees to indemnify, defend and hold harmless Buyer, its officers, agents, employees, successors, assigns, customers and users of the Seller's goods and services, from and against any and all losses, expenses (including, without limitation, reasonable attorneys' and other professional fees), costs, damages, demands, liabilities, suits and claims in connection with or arising out of any actual or alleged bodily injury (including death) or damage or destruction to property (including loss of use) by whomsoever suffered, sustained or alleged to have been sustained by reason of or arising out of: (a) any act, error or omission, whether negligent or not, of Seller or its agents, employees, suppliers, subcontractors and consultants, or (b) any defect, whether latent or patent, in the Seller's goods or services, or (c) any failure of the Seller's goods or services to comply with any warranty of Seller or (d) the performance of Seller's services, whether caused in part by a party indemnified hereunder. In any and all claims against a party indemnified under this paragraph by an employee of Seller, its subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations of Seller under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

16. **Applicable Law; Dispute Resolution.** This Purchase Order shall be governed by the laws of the Commonwealth of Pennsylvania, and litigation or contractual causes arising from this Purchase Order shall be brought only in a Federal District Court located in Pennsylvania or in a court in the Commonwealth of Pennsylvania. At the election of Buyer, any dispute, controversy or claim relating to the goods or services or this Purchase Order shall be resolved through binding arbitration. In the event of arbitration, the arbitration shall be conducted in accordance with the rules then in effect of the American Arbitration Association, and judgment upon the award rendered in arbitration may be entered in any court having jurisdiction.

17. **Government Regulations.** Seller warrants that all goods and services under this Purchase Order have been produced in compliance with all federal, state and local laws existing at time of delivery. Seller agrees to furnish Buyer with appropriate certificates showing such compliance upon request. Seller will maintain all documents and records of goods and services provided under this Purchase Order and will make such available upon written request to any authorized government agency for a period of four years following completion of this Purchase Order. Seller warrants compliance with the Equal Employment Opportunity Act, the Fair Labor Standards Act, and the Consumer Product Safety Act. Goods shipped pursuant to this Purchase Order must comply with the Occupational Safety and Health Act. Seller agrees to maintain confidentiality of resident individually identifiable health information in accordance with the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations. It is particularly important that Material Safety Data Sheets for all materials be received by Buyer prior to or with shipment of the goods.

18. **Waivers.** Seller shall not file or maintain any liens (including mechanics' liens) or claims against the goods or against the real property in which the goods or services are installed or performed, and Seller hereby waives its right to file or maintain such a lien. As a condition precedent to payment hereunder, Seller shall furnish all necessary releases, lien waivers, affidavits and other documents which Buyer may require to keep the goods and the real property free from liens or claims. If requested by Buyer, Seller shall execute and deliver to Buyer a release of liens at the time of final payment. SELLER ACKNOWLEDGES AND AGREES THAT IT HEREBY SPECIFICALLY WAIVES ALL OF ITS RIGHTS UNDER THE PENNSYLVANIA CONTRACTOR AND SUBCONTRACTOR PAYMENT ACT, 73 P.S. § 501 et seq. (the "Act"), INCLUDING, WITHOUT LIMITATION, ANY RIGHT TO INTEREST, PENALTIES AND ATTORNEYS' FEES PROVIDED BY THE ACT.